

# HOUSE BILL 18

N1, P1

(PRE-FILED)

11r1420  
CF SB 154

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By: **Delegates W. Fisher, Rosenberg, Stewart, and Wilkins**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Landlord and Tenant – Eviction Action – Right to Counsel**

3 FOR the purpose of establishing that certain individuals have a right to legal  
4 representation in eviction proceedings; establishing the position of Right to Counsel  
5 in Evictions Coordinator in the Office of the Attorney General; providing for the  
6 purpose, appointment, duties, and expenses of the Coordinator; requiring the legal  
7 representation of certain individuals in certain civil proceedings and matters by  
8 certain organizations; authorizing the Coordinator to contract with certain  
9 organizations to manage all or part of certain services provided to certain  
10 individuals; requiring the Coordinator to develop a certain pamphlet and for a sheriff  
11 or constable to provide certain individuals with the pamphlet when serving process  
12 for certain civil proceedings; requiring the Coordinator to designate certain  
13 community groups for a certain purpose; requiring the Coordinator to report to the  
14 Governor and the General Assembly on or before a certain date, to publish the report  
15 on the Attorney General's website, and to hold a public hearing on the report;  
16 establishing the Right to Counsel in Evictions Task Force; providing for the  
17 composition and chair of the Task Force; prohibiting a member of the Task Force  
18 from receiving certain compensation, but authorizing the reimbursement of certain  
19 expenses; requiring the Task Force to study and make recommendations regarding  
20 certain matters; authorizing the Task Force to apply for certain grants for a certain  
21 purpose; establishing the Right to Counsel in Evictions Fund as a special, nonlapsing  
22 fund; specifying the purpose of the Fund; requiring the Right to Counsel in Evictions  
23 Coordinator to administer the Fund; requiring the State Treasurer to hold the Fund  
24 and the Comptroller to account for the Fund; specifying the contents of the Fund;  
25 specifying the purpose for which the Fund may be used; providing for the investment  
26 of money in and expenditures from the Fund; requiring that the provisions of this  
27 Act be fully implemented within a certain period of time; providing that priority of  
28 funding under this Act be given to tenants in certain local jurisdictions; authorizing  
29 a local jurisdiction to adopt certain local law; requiring the Coordinator to provide  
30 funds to certain local jurisdictions under certain circumstances; requiring the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Coordinator to adopt certain regulations; making the provisions of this Act severable;  
2 defining certain terms; and generally relating to the right to counsel in housing  
3 proceedings.

4 BY adding to  
5 Article – Real Property  
6 Section 8–901 through 8–912 to be under the new subtitle “Subtitle 9. Right to Legal  
7 Representation in Eviction Cases”  
8 Annotated Code of Maryland  
9 (2015 Replacement Volume and 2020 Supplement)

10 Preamble

11 WHEREAS, Over 655,000 eviction cases are filed each year in the State with only  
12 805,000 renter households; and

13 WHEREAS, Evictions exacerbate the public health crisis posed by COVID–19; and

14 WHEREAS, Evictions create significant costs for state and local government related  
15 to shelter funding, education funding, health care provided in hospitals instead of  
16 community–based providers, transportation costs for homeless youth, and foster care; and

17 WHEREAS, A study of eviction actions in one local jurisdiction found that while only  
18 1% of tenants are represented in eviction proceedings, approximately 96% of landlords are  
19 represented by an attorney or specialized agent in eviction proceedings; and

20 WHEREAS, Evictions have a disparate impact on black and brown households in the  
21 State; and

22 WHEREAS, The General Assembly seeks to end the disparate impact of evictions  
23 based on race and gender; and

24 WHEREAS, Providing a right to counsel to tenants in eviction cases is a proven  
25 means of preventing the disruptive displacement of families and the resulting social,  
26 economic, and public health costs of such displacement; and

27 WHEREAS, Tenants must be able to invoke and enforce the right to legal  
28 representation in any eviction–related proceeding to provide for equal access to justice and  
29 the courts; and

30 WHEREAS, It is the policy of the State that tenants facing an eviction from their  
31 home shall have a right to legal representation in eviction proceedings, and the State shall  
32 provide such representation to tenants to assist in the fair administration of justice; now,  
33 therefore,

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
35 That the Laws of Maryland read as follows:

1 Article – Real Property

2 SUBTITLE 9. RIGHT TO LEGAL REPRESENTATION IN EVICTION CASES.

3 8–901.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (B) “COMMUNITY GROUP” MEANS A NONPROFIT ENTITY WITH THE  
7 CAPACITY TO CONDUCT TENANT OUTREACH AND PROVIDE ENGAGEMENT,  
8 EDUCATION, AND INFORMATION.

9 (C) “COORDINATOR” MEANS THE RIGHT TO COUNSEL IN EVICTIONS  
10 COORDINATOR.

11 (D) “COVERED INDIVIDUAL” MEANS AN INDIVIDUAL WHO:

12 (1) OCCUPIES A RESIDENTIAL PROPERTY UNDER A CLAIM OF LEGAL  
13 RIGHT OTHER THAN OWNER, INCLUDING A TENANT IN A BUILDING OWNED,  
14 OPERATED, OR MANAGED BY A PUBLIC HOUSING AUTHORITY; AND

15 (2) IS A MEMBER OF A HOUSEHOLD WITH AN INCOME THAT IS NOT  
16 GREATER THAN 50% OF THE MEDIAN INCOME IN THE STATE AS DETERMINED BY THE  
17 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES OR ITS  
18 SUCCESSOR.

19 (E) “DESIGNATED ORGANIZATION” MEANS A NONPROFIT ENTITY  
20 DESIGNATED BY THE COORDINATOR WITH THE ABILITY TO PROVIDE LEGAL  
21 REPRESENTATION TO COVERED INDIVIDUALS.

22 (F) “FUND” MEANS THE RIGHT TO COUNSEL IN EVICTIONS FUND.

23 (G) “LEGAL REPRESENTATION” INCLUDES ALL REPRESENTATION BY AN  
24 ATTORNEY BEYOND BRIEF LEGAL ADVICE AND IS NOT LIMITED TO THE FORMAL  
25 ENTRY OF APPEARANCE IN COURT.

26 (H) “TASK FORCE” MEANS THE RIGHT TO COUNSEL IN EVICTIONS TASK  
27 FORCE.

28 8–902.

29 A COVERED INDIVIDUAL HAS A RIGHT TO LEGAL REPRESENTATION AS

1 PROVIDED UNDER THIS SUBTITLE.

2 **8-903.**

3 (A) THERE IS A RIGHT TO COUNSEL IN EVICTIONS COORDINATOR IN THE  
4 OFFICE OF THE ATTORNEY GENERAL.

5 (B) THE PURPOSE OF THE COORDINATOR IS TO ORGANIZE AND DIRECT  
6 SERVICES AND RESOURCES IN ORDER TO PROVIDE ALL COVERED INDIVIDUALS IN  
7 THE STATE WITH ACCESS TO LEGAL REPRESENTATION AS REQUIRED UNDER THIS  
8 SUBTITLE.

9 (C) (1) THE ATTORNEY GENERAL SHALL APPOINT THE COORDINATOR.

10 (2) THE COORDINATOR SERVES AT THE PLEASURE OF THE  
11 ATTORNEY GENERAL.

12 (D) SALARIES OF THE COORDINATOR AND STAFF FOR THE COORDINATOR  
13 AND EXPENSES RELATED TO THIS SUBTITLE SHALL BE AS PROVIDED IN THE STATE  
14 BUDGET.

15 **8-904.**

16 (A) THE COORDINATOR SHALL PROVIDE FOR ACCESS TO LEGAL  
17 REPRESENTATION BY A COVERED INDIVIDUAL FOR A JUDICIAL OR ADMINISTRATIVE  
18 PROCEEDING, INCLUDING THE FIRST APPEAL OF A DECISION IN THE PROCEEDING  
19 IF THE DESIGNATED ORGANIZATION DETERMINES THAT THERE ARE SUFFICIENT  
20 LEGAL GROUNDS FOR THE APPEAL:

21 (1) TO EVICT OR TERMINATE THE TENANCY OR HOUSING SUBSIDY OF  
22 A COVERED INDIVIDUAL; AND

23 (2) FOR A VIOLATION OF ANY OF THE FOLLOWING SECTIONS OF THIS  
24 SUBTITLE:

25 (I) RETALIATORY ACTION BY A LANDLORD UNDER § 8-208.1;

26 (II) RETALIATORY ACTION FOR INFORMING A LANDLORD OF  
27 LEAD POISONING HAZARDS UNDER § 8-208.2;

28 (III) RENT ESCROW AWAITING REPAIR OF DANGEROUS DEFECTS  
29 UNDER § 8-211;

1 (IV) FAILURE OF A LESSOR TO REMOVE LEAD-BASED PAINT  
2 UNDER § 8-211.1;

3 (V) NONJUDICIAL EVICTION BY THE WILLFUL DIMINUTION OF  
4 SERVICES UNDER § 8-216; AND

5 (VI) THE LOCAL EQUIVALENT OF ANY PROVISION IN ITEMS (I)  
6 THROUGH (V) OF THIS PARAGRAPH.

7 (B) (1) THE COORDINATOR SHALL ENSURE THAT A COVERED  
8 INDIVIDUAL RECEIVES ACCESS TO LEGAL REPRESENTATION BY AN ATTORNEY IN A  
9 PROCEEDING AS REQUIRED UNDER THIS SUBTITLE AS SOON AS POSSIBLE AFTER:

10 (I) A LANDLORD PROVIDES NOTICE TO TERMINATE OR NOT  
11 RENEW A TENANCY;

12 (II) THE INITIATION OF AN EVICTION PROCEEDING; OR

13 (III) THE DETERMINATION BY A DESIGNATED ORGANIZATION  
14 THAT A PROCEEDING ON BEHALF OF A COVERED INDIVIDUAL SHOULD BE INITIATED.

15 (2) IF FEASIBLE, LEGAL REPRESENTATION REQUIRED UNDER THIS  
16 SUBSECTION SHOULD BEGIN NO LATER THAN THE TIME OF THE COVERED  
17 INDIVIDUAL'S FIRST APPEARANCE IN A PROCEEDING.

18 (C) A DESIGNATED ORGANIZATION SHALL PROVIDE A COVERED  
19 INDIVIDUAL WITH LEGAL REPRESENTATION UNLESS:

20 (1) CIRCUMSTANCES SPECIFIC TO THE INDIVIDUAL OR CASE  
21 PROHIBIT LEGAL REPRESENTATION BY THE DESIGNATED ORGANIZATION UNDER  
22 THE MARYLAND RULES OF PROFESSIONAL CONDUCT; OR

23 (2) THE DESIGNATED ORGANIZATION LACKS THE CAPACITY AT THE  
24 TIME TO LEGALLY REPRESENT THE COVERED INDIVIDUAL.

25 (D) THE COORDINATOR MAY CONTRACT WITH A DESIGNATED  
26 ORGANIZATION TO PROVIDE ALL OR PART OF THE SERVICES REQUIRED UNDER THIS  
27 SECTION.

28 8-905.

29 (A) THE COORDINATOR SHALL DEVELOP AN INFORMATIONAL PAMPHLET IN  
30 BOTH ENGLISH AND SPANISH:

1           **(1) DESCRIBING THE LEGAL RIGHTS OF TENANTS, INCLUDING THE**  
2 **RIGHT TO COUNSEL ESTABLISHED UNDER THIS SUBTITLE; AND**

3           **(2) PROVIDING INFORMATION ON RESOURCES AVAILABLE TO**  
4 **TENANTS.**

5           **(B) A SHERIFF OR CONSTABLE SHALL PROVIDE A COPY OF THE PAMPHLET**  
6 **DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION IN ADDITION TO THE PROCESS**  
7 **SERVED ON A TENANT, AN ASSIGNEE, OR A SUBTENANT IN ACCORDANCE WITH THE**  
8 **FOLLOWING PROVISIONS OF THIS ARTICLE:**

9           **(1) AN EVICTION PROCEEDING FOR A FAILURE TO PAY RENT UNDER §**  
10 **8-401;**

11           **(2) AN EVICTION PROCEEDING FOR A TENANT HOLDING OVER UNDER**  
12 **§ 8-402; AND**

13           **(3) AN EVICTION PROCEEDING FOR A BREACH OF LEASE UNDER §**  
14 **8-402.1.**

15 **8-906.**

16           **THE COORDINATOR SHALL DESIGNATE AND CONTRACT WITH APPROPRIATE**  
17 **COMMUNITY GROUPS TO CONDUCT OUTREACH AND PROVIDE EDUCATION TO**  
18 **TENANTS LOCALLY AND THROUGHOUT THE STATE REGARDING TENANTS' RIGHTS,**  
19 **INCLUDING THE RIGHT TO LEGAL REPRESENTATION UNDER THIS SUBTITLE.**

20 **8-907.**

21           **(A) ON OR BEFORE AUGUST 31 EACH YEAR, THE OFFICE OF THE**  
22 **COORDINATOR SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §**  
23 **2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY:**

24           **(1) THE NUMBER OF COVERED INDIVIDUALS PROVIDED LEGAL**  
25 **REPRESENTATION DURING THE PREVIOUS CALENDAR YEAR;**

26           **(2) INFORMATION ON AND METRICS EVALUATING CASE OUTCOMES;**  
27 **AND**

28           **(3) A SUMMARY OF THE ENGAGEMENT AND EDUCATION OF TENANTS.**

29           **(B) THE COORDINATOR SHALL PUBLISH THE REPORT ON THE ATTORNEY**

1 GENERAL'S WEBSITE.

2 (C) THE COORDINATOR SHALL HOLD A PUBLIC HEARING ON THE REPORT.  
3 8-908.

4 (A) THERE IS A RIGHT TO COUNSEL IN EVICTIONS TASK FORCE.

5 (B) (1) THE TASK FORCE CONSISTS OF UP TO 15 MEMBERS APPOINTED  
6 BY THE ATTORNEY GENERAL AND MAY INCLUDE:

7 (I) REPRESENTATIVES OF THE MARYLAND STATE BAR  
8 ASSOCIATION;

9 (II) REPRESENTATIVES OF TENANT ADVOCACY GROUPS;

10 (III) REPRESENTATIVES OF THE JUDICIARY;

11 (IV) REPRESENTATIVES OF COMMUNITY GROUPS; AND

12 (V) TENANTS AND OTHER INTERESTED CITIZENS.

13 (2) AT LEAST THREE MEMBERS OF THE TASK FORCE MUST BE  
14 TENANTS WHOSE INCOME DOES NOT EXCEED 50% OF THE STATE MEDIAN INCOME  
15 ADJUSTED FOR HOUSEHOLD SIZE.

16 (C) THE ATTORNEY GENERAL SHALL DESIGNATE THE CHAIR OF THE TASK  
17 FORCE.

18 (D) A MEMBER OF THE TASK FORCE:

19 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE TASK  
20 FORCE; BUT

21 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
22 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

23 (E) THE TASK FORCE SHALL:

24 (1) EVALUATE THE PROVISION OF SERVICES UNDER THIS SUBTITLE,  
25 INCLUDING THE PERFORMANCE OF DESIGNATED ORGANIZATIONS AND DESIGNATED  
26 COMMUNITY GROUPS;

1           **(2) STUDY POTENTIAL FUNDING SOURCES; AND**

2           **(3) MAKE RECOMMENDATIONS TO IMPROVE THE IMPLEMENTATION**  
3 **OF THIS SUBTITLE, INCLUDING NECESSARY POLICY AND STATUTORY CHANGES.**

4           **(F) THE TASK FORCE MAY APPLY FOR GRANTS FROM PUBLIC AND PRIVATE**  
5 **ENTITIES TO CARRY OUT THE DUTIES OF THE TASK FORCE.**

6 **8-909.**

7           **(A) THERE IS A RIGHT TO COUNSEL IN EVICTIONS FUND.**

8           **(B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO FULLY**  
9 **IMPLEMENT A CIVIL RIGHT TO LEGAL REPRESENTATION IN EVICTIONS AND OTHER**  
10 **RELATED PROCEEDINGS IN THE STATE.**

11           **(C) THE COORDINATOR SHALL ADMINISTER THE FUND.**

12           **(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**  
13 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

14           **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**  
15 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

16           **(E) THE FUND CONSISTS OF:**

17           **(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**  
18 **AND**

19           **(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**  
20 **THE BENEFIT OF THE FUND.**

21           **(F) THE FUND MAY BE USED ONLY FOR:**

22           **(1) SERVICES PROVIDED BY A DESIGNATED ORGANIZATION OR**  
23 **ACTIVITY BY A COMMUNITY GROUP TO IMPLEMENT THE RIGHT TO COUNSEL IN**  
24 **EVICION PROCEEDINGS AS PROVIDED IN THIS SUBTITLE, INCLUDING ALL COSTS**  
25 **ASSOCIATED WITH REQUIRED LEGAL REPRESENTATION IN ANY PROCEEDING AND**  
26 **ANY OUTREACH AND EDUCATION ACTIVITIES;**

27           **(2) IF A LOCAL JURISDICTION ENACTS A PROGRAM AUTHORIZED**  
28 **UNDER THIS SUBTITLE, SERVICES PROVIDED BY THE LOCAL JURISDICTION TO**  
29 **IMPLEMENT THE RIGHT TO COUNSEL IN EVICTION PROCEEDINGS AS PROVIDED FOR**



1 IN THIS SUBTITLE, INCLUDING ALL COSTS ASSOCIATED WITH REQUIRED LEGAL  
2 REPRESENTATION IN ANY PROCEEDING AND ANY OUTREACH AND EDUCATION  
3 ACTIVITIES;

4 (3) ADMINISTRATIVE EXPENSES OF THE OFFICE OF THE  
5 COORDINATOR; AND

6 (4) EXPENSES RELATED TO THE STUDY AND EVALUATION OF:

7 (I) SERVICES AND ACTIVITIES PROVIDED UNDER THIS  
8 SUBTITLE; AND

9 (II) FUNDING AMOUNTS AND SOURCES NECESSARY TO FULLY  
10 EFFECTUATE A RIGHT TO COUNSEL IN EVICTION PROCEEDINGS.

11 (G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND  
12 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

13 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO  
14 THE GENERAL FUND OF THE STATE.

15 (H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE  
16 WITH THE STATE BUDGET.

17 (I) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS NOT  
18 INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE  
19 APPROPRIATED FOR CIVIL LEGAL SERVICES FROM ANY OTHER SOURCE.

20 8-910.

21 (A) LEGAL REPRESENTATION AS REQUIRED UNDER THIS SUBTITLE SHALL  
22 BE PHASED IN OVER TIME IN A MANNER THAT THE COORDINATOR DETERMINES  
23 APPROPRIATE AFTER CONSULTATION WITH THE TASK FORCE AND SHALL BE FULLY  
24 IMPLEMENTED BEFORE OCTOBER 1, 2025.

25 (B) PRIORITY IN FUNDING DURING THE PHASE-IN PERIOD WILL BE GIVEN  
26 TO TENANTS IN A LOCAL JURISDICTION THAT PROVIDES OR AGREES TO PROVIDE  
27 SIGNIFICANT ADDITIONAL LOCAL FUNDING TO EFFECTUATE A RIGHT TO COUNSEL  
28 IN EVICTION PROCEEDINGS IN THE LOCAL JURISDICTION.

29 8-911.

30 (A) A LOCAL JURISDICTION MAY ENACT A LOCAL LAW PROVIDING FOR

1 LEGAL REPRESENTATION IN EVICTION PROCEEDINGS FILED IN THE LOCAL  
2 JURISDICTION.

3 (B) IF A LOCAL JURISDICTION ENACTS A LOCAL LAW UNDER SUBSECTION  
4 (A) OF THIS SECTION PROVIDING FOR LEGAL REPRESENTATION IN EVICTION  
5 PROCEEDINGS SUBSTANTIALLY SIMILAR TO THAT DESCRIBED IN THIS SUBTITLE,  
6 THE COORDINATOR SHALL DIRECT FUNDING THAT WOULD HAVE BEEN ALLOCATED  
7 UNDER THIS SUBTITLE FOR THE BENEFIT OF THAT LOCAL JURISDICTION'S TENANTS  
8 TO THE LOCAL PROGRAM.

9 8-912.

10 THE COORDINATOR SHALL ADOPT REGULATIONS TO CARRY OUT THE  
11 PROVISIONS OF THIS SUBTITLE.

12 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or  
13 the application thereof to any person or circumstance is held invalid for any reason in a  
14 court of competent jurisdiction, the invalidity does not affect other provisions or any other  
15 application of this Act that can be given effect without the invalid provision or application,  
16 and for this purpose the provisions of this Act are declared severable.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2021.